

PATENT COOPERATION TREATY

Rec'd CT/PTO 29 APR 2005

From the:  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:  Collison & Co GPO Box 2556 ADELAIDE SA 5001		<b>PCT</b> <b>WRITTEN OPINION</b> (PCT Rule 66) <b>8 SEP 04</b>	
<b>COLLISON &amp; CO.</b> <b>- 9 JUL 2004</b>		Date of mailing (day/month/year) <b>08 JUL 2004</b>	
Applicant's or agent's file reference <b>54081PCT</b>		REPLY DUE within <b>TWO MONTHS</b> from the above date of mailing	
International Application No. <b>PCT/AU2003/001437</b>	International Filing Date (day/month/year) <b>31 October 2003</b>	Priority Date (day/month/year) <b>1 November 2002</b>	
International Patent Classification (IPC) or both national classification and IPC <b>Int. Cl. <sup>7</sup> A42B 1/06, 1/02, 3/10</b>			
Applicant  <b>NICHOLAS, Bedford</b>			

1. This written opinion is the **first** drawn by this International Preliminary Examining Authority.

2. This opinion contains indications relating to the following items:

I	<input checked="" type="checkbox"/>	Basis of the opinion
II	<input type="checkbox"/>	Priority
III	<input type="checkbox"/>	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
IV	<input type="checkbox"/>	Lack of unity of invention
V	<input checked="" type="checkbox"/>	Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
VI	<input type="checkbox"/>	Certain documents cited
VII	<input type="checkbox"/>	Certain defects in the international application
VIII	<input type="checkbox"/>	Certain observations on the international application

3. The **FINAL DATE** by which the international preliminary examination report must be established according to Rule 69.2 is:  
**1 March 2005** (**FINAL DATE 1/2/05**)

4. The applicant is hereby invited to reply to this opinion.

**When?** See the Reply Due date indicated above. However, the Australian Patent Office will not establish the Report before the earlier of (i) a response being filed, or (ii) one month before the **Final Date** by which the international preliminary examination report must be established. The Report will take into account any response (including amendments) filed before the Report is established. **If no response is filed by 1 month before the Final Date, the international preliminary examination report will be established on the basis of this opinion.**

Applicants wishing to have the benefit of a further opinion (if needed) before the report is established should ensure that a response is filed at least **3 months before the Final Date** by which the international preliminary examination report must be established.

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also** For an additional opportunity to submit amendments, see Rule 66.4. For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4bis. For an informal communication with the examiner, see Rule 66.6.

Name and mailing address of the IPEA/AU AUSTRALIAN PATENT OFFICE PO BOX 200, WODEN ACT 2606, AUSTRALIA E-mail address: pct@ipaustalia.gov.au Facsimile No. (02) 6285 3929	Authorized Officer  <b>JONATHAN MILLS</b> Telephone No. (02) 6283 2113
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WRITTEN OPINION

International application No.  
PCT/AU2003/001437

I. Basis of the opinion

1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed.
- ☒ the description, pages 1-10, as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☒ the claims, pages 11,13, as originally filed,  
pages 12, as amended under Article 19,  
pages , filed with the demand,  
pages , received on with the letter of
- ☒ the drawings, pages 1-6, as originally filed,  
pages , filed with the demand,  
pages , received on with the letter of
- ☐ the sequence listing part of the description:  
pages , as originally filed  
pages , filed with the demand  
pages , received on with the letter of

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/fig.

5. This opinion has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed"

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WRITTEN OPINION

International application No.

PCT/AU2003/001437

V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 3,4,6,7,9-13,15-18	YES
	Claims 1,2,5,8,14	NO
Inventive step (IS)	Claims 9,15,16	YES
	Claims 1-8,10-14,17,18	NO
Industrial applicability (IA)	Claims 1-18	YES
	Claims	NO

2. Citations and explanations

The following documents identified in the International Search Report have been considered for the purposes of this report:

D1 US 4551858 A1 (PASTERNAK)  
D2 US 5557807 A1 (HUJAR et al.)  
D3 US 5539934 A1 (PONDER)

Novelty (N)

Document D1 discloses a helmet having a cooling harness held between an outer helmet and an inner, insulating, padded casing. The harness is a pouch of elastic material containing a coolant liquid. Claims 1,2,5,8 and 14 are therefore not novel.

Inventive Step (IS)

If the helmet of D1 were combined with a freezable gel as its coolant, as is common in the art and would be obvious to a person skilled in the art, it would disclose all the features of claims 3,7,10,12,13 and 14, which consequently lack an inventive step.

Document D2 discloses all the features of the claims 1-8, 10-14,17 and 18 with the exception that the article of headwear disclosed has its coolant pouch wholly enclosed in a padded pouch which is then removably fastened to the inside of the outer part of the crown. In consequence of this the coolant part is not strictly "intermediate" the inner and outer crown parts, but there is provided an inner crown part between the coolant pouch and the head of the wearer. This is considered to be a minor and non inventive difference between the document and the invention as claimed.

In contrast to document D2, document D3 discloses a helmet in which the coolant pouch is directly attached to the inside of the helmet and there is no inner crown part between the coolant pouch and the head of the wearer. This document is therefore not considered to render the claimed invention obvious.

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JC12 Re PCT/PTC 29 APR 2005

**COLLISON & CO**

1877 2002

Your Ref:

Please quote our reference

Our Ref: 54081PCT PAB:JPH

23 December 2004

THE COMMISSIONER OF PATENTS

WODEN ACT 2606

Madam

**PCT Application No PCT/AU03/01437**

**COOLING HELMET**

**NICHOLAS BEDFORD**

Thank you for your First International Preliminary Exam Report dated 8 July 2004, in relation to the aforementioned PCT Application.

As such, please find attached a schedule of amendments, which replaces the original claims set. The claims defining the invention have been amended so as to distinguish the invention as claimed from the prior art citations.

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Independent claims 1 and 10 have been amended so that they now include the disclosure of *'an article of headwear including an impact resistant outer part of crown shape, and an impact resistant inner part of crown shape of a size and shape adapted to nest with the outer part.'* The essential feature of an impact resistant inner part is not disclosed in any of the prior art citations.

Referring now to page 2 of the specification, where it is explained that:  
*'By structurally separating the crown of a headwear item into at least two parts with an intermediate part in between, provides an opportunity to control within a contained space arrangement for airflow and cooling effect, and distribution of cooling air from this.'*

*'Also, where there is an outer and inner part of an impact resistant material, this then allows for improved impact resistance by reason of a double wall characteristic which can then also mean that lighter materials may be used for the individual parts which is to say lighter than would have been ordinarily needed for a single thickness crown to get a similar protective effect. This can assist in keeping an all up weight of a helmet within acceptable limits.'*

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We submit therefore that the invention as defined in amended Independent Claims 1 and 10 is novel and inventive, and that the remainder of the claims are novel and inventive also, by virtue of their successive dependencies on these claims.

In light of these amendments and comments, we respectfully request that the Examiner reconsider their reasoned statement, and allow the IPR to be established with a clear report.

Yours sincerely  
COLLISON & CO

PHILLIP BOEHM

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Received: 4/26/05 2:04;

-> Nath and Associates PLLC; Page 38

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WO 2004/039191

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### STATEMENT OF AMENDMENTS

1. Delete page 12 of the claims presently on file and substitute in place thereof new page 12 attached hereto.

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